IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No. 49 of 2001
(Old No.59/2000)

1. The Commissioner of Income Tax ,Meerut
2. Dy. Commissioner of Income Tax (Assessment), Special Range-I, Dehradun. ... Appellants

Versus

ONGC as agent of M/s Hitachi Zosen, Japan, Tel Bhawan, Dehradun ... Respondent

Dated: November 21, 2005

Mr. S. K. Posti, Advocate for the appellants.
Mr. J.P. Joshi, Advocate for the respondent.

Coram: Hon. P. C. Verma, J.
Hon. J.C.S. Rawat, J.

This appeal is against the order dated 12th August, 1999 passed by the Income Tax Appellate Tribunal, (Delhi Bench 'A' Delhi) in ITA No. 7291(Del) of 1992. The dispute relates to the Assessment Year 1989-90.

2. The substantial question of law raised in the appeal is as follows:

> *"Whether on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal was legally correct in holding the income determined on notional basis in accordance with Section 44BB of Income Tax Act, 1961 was not liable to be Grossed Up under Section 195 A of the Income Tax Act ? "*

3. An identical question of law was considered by a Division Bench of this Court in the Judgment in Commissioner of Income Tax, Meerut and another Vs. ONGC as agent of Cooper Engineering Services International Incorporated and connected cases, which was reported in (2003) 264 ITR 340. In

the above judgment, this Court held that the Tribunal was right in holding that Multiple Stage Grossing Up of income was not applicable to notional income under section 44BB read with section 195A of the Income Tax Act, 1961.

4. Following the above-mentioned judgment of a Division Bench of this Court, we dismiss this appeal.

(J.C.S. Rawat, J.) **(P.C. Verma, J.)**

Rajeev Dang